IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 5125 of 1994

Between:

1. Sri Venugopala Sawmy Devasthanam Mahadevpur Village,
Bibinagar Mandal (erstwhile Bhongir Tq), Nalgonda District,

rep. by its Chairman, G.Vittal Singh.
2. G.Vittal Singh, S/o.Ganesh Singh,
R/o.Kondamadugu Bibinagar Mandal,
Nalgonda District,.
3. S.Pentaiah, S/o.Papaiah,
R/o.Mahadevpur, Bibinagar Mandal,
Nalgonda District.
4. Kondadi Gopi Reddy, S/o.Gowra Reddy,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.
5. Yengala Swamy, S/o.Kishtaiah,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.
6. Munigala Yadaiah, S/o.Pentaiah,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.
7. Akula Swamy, S/o.Kishtaiah,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.
8. Chevvula Narsi Reddy, S/o.Sathi Reddy,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.
9. Thota Gopaiah, S/o.Narayan,
R/o.Mahadevpur Village, Bibinagar Mandal,

Nalgonda District.
10. Vanala Yadagiri, S/o.Venkata Narsaiah,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.
11. B.Bala Narsimha, S/o.Narsimha,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.
12. Gandla Narasimha, S/o.Narsimha,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.
13. Dandem Sattaiah, S/o.Narsaiah,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.
14. Akula Balaiah, S/o.Kishtaiah,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.
15. Yelmineti Venkaiah, S/o.Venkaiah,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.
16. Munigala Narsimha, S/o.Ramaiah,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.
17. Manne Narasimha, S/o.Narayana,
R/o.Mahadevpur Village, Bibinagar Mandal,
Nalgonda District.

..... PETITIONERS

AND

1. The Commissioner of Endowments, Andhra Pradesh, Hyderabad.
2. The Deputy Commissioner of Endowments, Andhra Pradesh, Hyderabad.
3. The Assistant Commissioner of Endowments, Andhra Pradesh, Hyderabad.
4. The Collector, Nalgonda District.
5. The Sub Collector (RDO), Bhongir, Nalgonda.
6. Manne Balaiah, S/o.Lakshmaiah,
C/o.Gowri Sankaraiah, H.No.3-38, Uppal, Hyderabad.
7. Sodineni Krishna, S/o.Shankaraiah,
R/o.Hanumapuram, Bhongiri Mandal,
Nalgonda District.
8. Giri Laxmamma, W/o.Shankaraiah,
H.No.3-38, Uppal, Hyderabad.

9. T.Chakrapani ,
3-10, Mahankali Thota, Champapet, Saroornagar,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus directing the respondents 1 to 5 to protect the Temple property being encroached upon by the respondents 6,7 and 8 and pass such other order.

Counsel for the Petitioner: MR.P.VIJAYA BHASKAR REDDY

Counsel for the Respondents 1 to 5: GP FOR ENDOWMENTS

Counsel for the Respondents 6 to 8: MR. G.RAMESH SAGAR

Counsel for Respondent No.9: None appeared

The Court made the following:

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ORDER:

This writ petition is filed seeking a writ of Mandamus directing the respondents 1 to 5 to take steps to protect the temple property alleged to have been encroached by the respondents 6 to 8.

Precisely, it is the case of the petitioners that though the land admeasuring acres 26-37 guntas situate in Sy.Nos.2, 3, 4, 5, 6, 7, 24, 97, 98, 99 and 113 of Mahadevpuram Village, Bibinagar Mandal, Nalgonda District is an endowed property belonging to Sri Venugopala Swamy Devasthanam, Mahadevpuram, the respondents 6 to 8 have encroached the said property but no steps are being taken by the authorities concerned.

Counter-affidavit has been filed by the second respondent- Deputy Commission of Endowments, wherein it is stated that as there was a dispute with regard to nature and ownership of the land in question, one Smt Manne Pentamma, the ancestor of the respondents 6 to 9, and one Manne Lakshmaiah and two others have filed a petition under Section-40 read with Section-77 of the Repealed Act 17 of 1966 and the said matter was taken on file as O.A.No.76 of 1977, wherein the Deputy Commissioner on considering the material on record and evidence available held that the lands in question are not the endowed properties of Sri Venugopala Swamy Devasthanam, Mahadevpuram. In that view of the matter, he submits that the writ petition is liable to be dismissed.

Sri G.Ramesh Sagar, learned counsel appearing for the respondents 6 to 8, reiterated the contentions of the second respondent in the counter-affidavit and also filed a copy of the order dated 21.09.1981 in O.A.No.76 of 1977.

The said order passed by the Deputy Commissioner of Endowments declaring that the lands in question are not endowed properties of Sri Venugopala Swamy temple is not questioned as per the provisions of the Endowments Act and hence, the same became final. Inasmuch it is declared by the competent authority that the lands in question are private properties and not the endowment properties of the petitioner-Devasthanam, it is not open for the petitioners to plead that the lands in question belong to the petitioner-Devasthanam and the respondents 6 to 8 are encroachers. Therefore, in view of the declaration by the competent authority under provisions of the Endowments Act that the lands in question are not the properties belonging to the petitioner-Devasthanam, the respondents 6 to 8 cannot be termed as 'encroachers'. If the petitioners are aggrieved by the order of Deputy Commissioner of Endowments, it is always open for them to avail the remedies available under the Statute i.e. under the Endowments Act, but the same cannot be the basis for issuance of a writ of Mandamus, as prayed for.

The writ petition is devoid of merits and is accordingly dismissed. No order as to costs.

R.SUBHASH REDDY, J

06.12.2004

dr

To

1. The Commissioner of Endowments, Andhra Pradesh, Hyderabad.
2. The Deputy Commissioner of Endowments, Andhra Pradesh, Hyderabad.
3. The Assistant Commissioner of Endowments, Andhra Pradesh, Hyderabad.
4. The Collector, Nalgonda District.
5. The Sub Collector (RDO), Bhongir, Nalgonda.
6. 2 CCs to Government Pleader for Endowments, High Court Buildings, Hyderabad. (OUT)

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